113 App. Div. 720, 99 N. Y. Supp. 215; *Kuschinsky* v. *Flanigan* (1912) 170 Mich. 245, 136 N. W. 362. The instant case is an extension of the line of reasoning established by earlier New York cases, *Siegel* v. *Neary* (1902) 38 Misc. 297, 77 N. Y. Supp. 854; *Adolphi* v. *Inglima* (1911) 130 N. Y. Supp. 130, which, it is believed, is erroneous. See *Patterson* v. *Graham, supra,* at p. 536; 2 Tiffany, Landlord & Tenant 1265.

LIMITATION OF ACTION—TRUSTS—EFFECT ON CESTUI OF BAR OF TRUSTEE.—A trustee, in breach of trust, sold the trust *res* to the defendant who had knowledge of the breach. The *cestuis* were infants. The trustee then resigned and a new trustee was appointed. The latter did not prosecute her right of action to recover the trust *res,* but the *cestuis* on becoming of age sued the defendant. *Held,* the *cestuis* were barred by the Statute of Limitations; the court reasoning that if the first trustee had remained in office, the Statute would not have run against the *cestuis,* until they came of age, since the trustee was estopped to sue, but that, as the second trustee who was their representative, could have sued and did not, the Statute ran against both the latter and the *cestuis. Hart* v. *Citizens Nat. Bank* (Kan. 1919) 185 Pac. 1.

The Court's statement that the first trustee was estopped from suing the defendant is contrary to the great weight of authority which allows him to recover in his representative capacity as trustee. *Wetmore* v. *Porter* (1883) 92 N. Y. 76; 17 Columbia Law Rev. 467, 494; but see *Harris* v. *Smith* (1897) 98 Tenn. 286, 293, 39 S. W. 343. Despite this fact, where there has been a breach of trust the *cestui* also can sue the third party directly; *Wetmore* v. *Porter, supra,* at p. 81; 11 Columbia Law Rev. 686; nor does the Statute begin to run against either the trustee in his representative capacity or against the *cestui* until the *cestui* becomes of age. *In re Marshall's Estate* (1890) 138 Pa. 285, 22 Atl. 24; 12 Harvard Law Rev. 132. But in the ordinary case in which the trustee holds a *chose* in action for the *cestui*—the case in which there has been no breach of trust—the *cestui's* sole remedy is in equity against the trustee to enforce the prosecution of the action by him, and since only the trustee can sue on it, as the *cestui's* representative, when the statute or laches bar the trustee the *cestui* is also barred although he be under a disability during the period of limitation. *Matheson* v. *Craven* (D. C. 1915) 228 Fed. 345; *Waterman Hall* v. *Waterman* (1906) 220 Ill. 569, 77 N. E. 142; see *Wren* v. *Dixon* (1916) 40 Nev. 170, 161 Pac. 722. The court in the instant case failed to distinguish between the two types of cases when it argued that the second trustee, representing the *cestui,* had full rights of recovery against either the first defrauding trustee or against the present defendant, and that therefore when the trustee was barred the *cestui* was barred. The fact that the *cestui* had an independent right of action, which arose on the first trustee's breach and against which the Statute could not start running until he became of age, was overlooked. The court's decision may doubtlessly be explained on the ground that the new trustee could honestly and effectively represent the *cestui* and that therefore it would be good policy to bar the *cestui* when the trustee is barred in the interest of settled title.

MASTER AND SERVANT—LIABILITY OF MASTER FOR WILFUL TORTS OF SERVANT.—The defendant's general manager ordered the plaintiff, who was the defendant's bookkeeper, to leave the safe open and the books